

Supreme Court of Florida

BRIEN ALLEN,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 87,941

[December 19, 1996]

PER CURIAM.

We have for review Allen v. State, 671 So. 2d 233 (Fla. 1st DCA 1996), in which the First District Court of Appeal certified the following question to be of great public importance:

WHETHER APPELLANTS MAY
BE SEPARATELY CONVICTED
AND SENTENCED FOR
ARMED BURGLARY, ARMED
ROBBERY, AND ARMED
KIDNAPPING WHERE EACH
OFFENSE IS PART OF THE
SAME CRIMINAL EPISODE?

Id. at 234. We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

Our recent decisions in M.P. v. State, 21 Fla. L. Weekly S433 (Fla. Oct. 10, 1996), and State v. Maxwell, 21 Fla. L. Weekly S429 (Fla. Oct. 10, 1996), are controlling. Based upon M.P. and Maxwell, we answer the certified question in the affirmative.

The district court also questioned the proper interpretation of this Court's decision

in State v. Stearns, 645 So. 2d 417 (Fla. 1994), and its applicability to the instant case. Allen, 671 So. 2d at 233-34. However, the court concluded that Stearns was inapplicable here. Id. at 234. We agree. As we explained in M.P., Stearns was limited to its specific facts and offenses and did not create a per se prohibition against multiple convictions and sentences arising from the same criminal episode. 21 Fla. L. Weekly at S434. We also agree with the district court that Allen's convictions and sentences did not constitute impermissible multiple punishments for the same offense in this case.

Accordingly, we approve the decision below.

It is so ordered.

OVERTON, SHAW, GRIMES, HARDING,
WELLS and ANSTEAD, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO
FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

Application for Review of the Decision of the
District Court of Appeal - Certified Great
Public Importance

First District - Case No. 94-1905

(Leon County)

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Kaufman, Assistant Public Defender, Second
Judicial Circuit, Tallahassee, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and

James W. Rogers, Bureau Chief and Amelia L.
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Tallahassee, Florida,

for Respondent